
**THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

DANIEL HERRERA,

Plaintiff,

v.

ZACHARY NOLD, et al.,

Defendants.

**MEMORANDUM DECISION AND
ORDER**

Case No. 2:19-CV-32 HCN

Howard C. Nielson, Jr.
United States District Judge

Plaintiff has filed a motion seeking my recusal. That motion is entirely without merit. First, Plaintiff's accusations that I backdated the December 16, 2022 order and fabricated the January 31, 2022 order are false. The date and fact of the entry of both orders are matters of public record not subject to reasonable dispute. I have no control over when Plaintiff receives court orders in the mail and am not responsible for any delays in his mail.

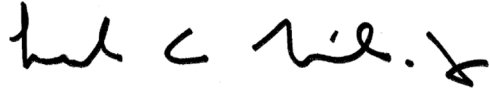
Second, I have shown Plaintiff considerable forbearance in this case. I accepted as true Plaintiff's representations that he did not receive the January 31, 2022 order, and I provided him 45 days to file a third amended complaint even though he had requested only 30 days to do so.

I accordingly find that Plaintiff has failed to show that my impartiality can reasonably be questioned or to establish any other basis for recusal. His motion for recusal is DENIED. No later than February 20, 2023, Plaintiff shall file a third amended complaint that complies with my January 31, 2022 order using the blank civil rights complaint form that the Clerk's Office will send to him. If he fails to do so, his motion to set aside the judgment will be denied. No further extensions will be given, and no further filings will be accepted by the court until Plaintiff files the third amended complaint.

IT IS SO ORDERED.

DATED this 6th day of January, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "h c Nielson, Jr.", written over a horizontal line.

Howard C. Nielson, Jr.
United States District Judge